

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 3407 of 1985

Date of decision: 28-01-97

For Approval and Signature

The Hon'ble Mr. Justice S. K. KESHOTE

1. Whether Reporters of Local papers may be allowed to see the judgment?
2. To be referred to the Reporter or not?
3. Whether their Lordships wish to see the fair copy of the judgment?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 or any order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

V B PANDYA

Versus

DIRECTOR GENERAL OF POLICE

Appearance:

MR G. M. Joshi for Petitioner

Mr. Mukesh Patel for Respondent No. 1, 2, 3

CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 28/01/97

ORAL JUDGEMENT

Heard the learned counsel for the parties.

The petitioner, a police sub inspector of the Police Department of the State of Gujarat filed this special civil application and prayer has been made that the respondents be directed to forthwith promote the petitioner to the post of Police Inspector and to grant him deemed date of seniority, i.e. the date on which his next junior came to be promoted. Further prayer has been made by the petitioner for directing respondent No.1 to treat the adverse remarks for the year 1981-82, communicated to the petitioner on 27th September, 1983, as null and void and further directing them to treat it as cancelled or withdrawn.

2. The petitioner was communicated adverse remarks vide memo dated 27th September, 1983 for the year 1981-82, in which one of the remarks was "integrity doubtful". The petitioner has come up with the case that against the adverse remarks he has made representation. The petitioner further stated that in the instant case years rolled by slowly, and with a view to harass the petitioner, representation is not yet decided. The petitioner has addressed reminders to the reviewing officer for deciding the representation, but the same has not been decided.

3. Reply to this special civil application has been filed by the respondents, and a copy of the same has been given to the petitioner today in court. In para 4 of the reply, the respondents have made statement on oath that the representation filed by the petitioner against adverse remarks for the year 1981-82 has been decided by the Deputy Inspector General of Police, Vadodara, and the decision thereof was conveyed to the petitioner by the District Superintendent of Police, Baroda (Rural), under his letter dated 13th May, 1985, and the petitioner's signature was obtained on the office copy of the said order in token of having received the same on 12th June, 1985. From these averments it is clear that the representation of the petitioner has been rejected much earlier to 18th June, 1985 and communication of rejection of the representation has been received by the petitioner on 12th June, 1985. The petitioner is a police officer of the rank of Sub Inspector at the relevant time when he filed special civil application, but he deliberately made false statement in special civil application. Learned counsel for the petitioner has contended that on 21st May, 1985 when this special civil application was filed by the petitioner before this court, communication of rejection of representation made by the petitioner against adverse remarks for the year 1981-82 was not

received by him. I do not find any substance in the contention of the counsel for the petitioner. It is true that affidavit has been sworn by the petitioner in support of this special civil application on 21st May, 1985, but the special civil application has been presented in Court on 18th June, 1985. The special civil application was filed by the petitioner after receipt of communication of rejection of his representation against adverse remarks. It was his duty to declare this fact before this Court. None disclosure of this material and important fact by the petitioner is certainly a deliberate concealment. The petitioner, by suppressing this material and important fact, got a favourable order of rule nisi as well as order for early hearing of the matter. The petitioner, in fact, made a false statement in the petition that his representation against adverse remark is not decided. In the proceedings under Article 226 of the Constitution, which are initiated for attracting the extraordinary jurisdiction of this Court, it is of utmost importance that the petitioner should come forward with clean hands. This court cannot encourage the idea that a person is entitled to adopt dubious or dishonest or fraudulent means and make false averments while submitting a writ petition in this court and further when his falsehood is exposed by the other side by putting the correct facts before the Court, it would not be proper to allow the petitioner to make his submissions on the merits of the case. It would be laying down a very dangerous principle in the conduct of human affairs if courts of law are allowed to be flooded with petitions based on false averments. This court can help in its extraordinary jurisdiction only those persons who approaches this court with clean hands, and if in a given case the court finds that the conduct of the petitioner has not been honest and free from deceit the court may decline to give any relief to the petitioner. A person who adopts dubious means must suffer the consequences of his conduct.

4. In the result this special civil application fails and the same is dismissed. Rule discharged. Interim relief granted earlier stands vacated. No order as to costs.

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